



# *Before you dive into swimming pool construction...*



A Consumer Guide from the  
California Contractors State License Board





## Contractors State License Board

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*[www.cslb.ca.gov](http://www.cslb.ca.gov)*



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## *Before you dive into swimming pool construction . . .*

**Y**ou're ready to take the plunge and install a backyard swimming pool, but your excitement may be tempered with misgivings about dealing with contractors and the construction process. Hiring a contractor to build your pool is not something you do every day. Not only is it an unfamiliar process, but it is a huge investment of your time and money. It is important for you to know that as a consumer you have rights, but you also have responsibilities, including doing what you can to protect yourself from unscrupulous contractors and illegal activity.

Begin by reviewing this booklet and other publications from the Contractors State License Board (CSLB) so that you are armed with tips to make sure your pool project goes swimmingly.

*Don't get soaked—do your home  
improvement homework before you  
hire a contractor.*

## Selecting a contractor



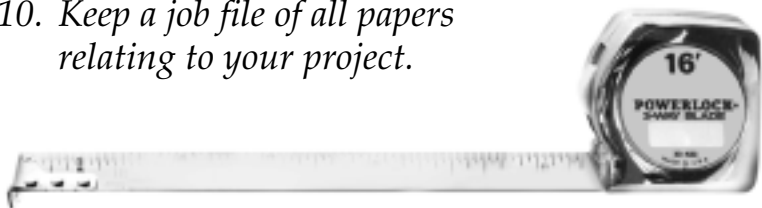
In California, any contracting job—including swimming pool construction or repair—that costs \$500 or more must be performed by a contractor who holds a current, valid contractors license from the CSLB. The license must be in the specialty for the work to be performed. There are 44 different kinds of contractor licenses, most of which are for specialty work, such as swimming pool construction.

In general, to become licensed, contractors must pass a written examination that tests knowledge of their trade; verify four years of journey-level experience in their trade; post a license bond; and show proof of workers' compensation insurance, if needed.

Contractors who perform swimming pool construction or repairs must be licensed as swimming pool specialty contractors. A general building contractor may also contract for swimming pool work provided the general building contractor holds the swimming pool specialty classification, or the general building contractor hires a licensed swimming pool specialty contractor to perform the work. Check with the CSLB to make sure the contractor is properly licensed and in good standing. First, ask for the contractor's license number, and then verify it with the CSLB online at [www.cslb.ca.gov](http://www.cslb.ca.gov) or toll-free at (800) 321-CSLB.

## Ten tips for making sure your swimming pool contractor measures up

1. *Hire only licensed contractors.*
2. *Check contractor's license number at [www.cslb.ca.gov](http://www.cslb.ca.gov) or (800) 321-CSLB.*
3. *Get three references and review past work.*
4. *Get at least three bids.*
5. *Get a written contract and don't sign anything until you completely understand the terms.*
6. *Pay 2% or \$200 down, whichever is less, for swimming pool projects.*
7. *Don't let payments get ahead of the work.*
8. *Don't make final payment until completion of the final plastering phase of construction, and until the installation or construction of equipment, decking, or fencing required by the contract has also been completed.*
9. *Don't pay cash.*
10. *Keep a job file of all papers relating to your project.*





One of the best ways to select a licensed swimming pool contractor is to seek out personal recommendations from friends or relatives who recently had similar work done. You may also get recommendations from trade associations, such as a local builders exchange or a swimming pool and spa association.

Then get the contractor's license number and check it out with the CSLB. Contractors carry a plastic pocket card issued by the CSLB that lists the contractor's license number, as well as the business name, address, trade classification, and license expiration date.

The CSLB also can tell you if the contractor has any legal actions against the license (citations, accusations, or court judgments), if the license is current and active, if the business carries workers' compensation insurance, and if the license bond is current.

Don't stop there—follow up with references. Ask the contractor for the names of clients—one current and one completed—and talk to them about the job and their satisfaction with the contractor. Some questions to ask include:

- Were you satisfied with the contractor's work?
- Did the contractor keep to the project schedule?
- Did the contractor stick to the contract terms and costs?
- How did the contractor deal with changes and corrections?
- Did the contractor resolve problems?

Solicit at least three bids from licensed, qualified contractors, and remember the lowest bid may not be your best choice. To accurately compare quotes, each bid must be based on the same specific set of plans and descriptions. A substantially lower bid may indicate the contractor made a mistake or did not include all of the work quoted by competitors.



Homeowners who are considering swimming pool construction may be contacted by, receive a bid from, and negotiate a contract with a contractor's salesperson—not the licensed contractor. Law allows licensed contractors to employ registered home improvement salespersons (HIS) to solicit, negotiate, sell, or execute contracts, including swimming pool construction and repair.

Find out who you're dealing with—the contractor or the contractor's salesperson. Anyone who solicits, sells, negotiates, or executes home improvement contracts, including swimming pool contracts, for a licensed contractor away from the contractor's normal place of business (such as in your home), must be registered with the CSLB. Home improvement salespersons must be ready to present to you their HIS registration.

Check with the CSLB to verify that both the contractor and the HIS are properly licensed and registered.



## Writing a contract

**M**ake sure everything is in writing—assume nothing. Although you might believe that a “contract” should look like a contract, anything you sign could be used as authorization to go forward with your project. This means that any bid you sign may become the contract; therefore, do not sign anything until you completely understand what you are signing, and you agree to all the terms.

Be sure to ask questions until you fully understand the contract and what the work will look like. Before signing anything, you may wish to discuss the proposed contract, plans and specifications with an attorney.

Since a written contract protects both you and the contractor, all agreements should be put in writing. A specific, detailed contract will help eliminate misunderstandings between you and your contractor and help establish a “meeting of the minds.” Among other elements, the contract must include a description of the work and the materials and equipment to be used.

Also, a plan and scale drawing of the shape, size, and dimensions must be included as part of your swimming pool contract.

Make sure everything you are paying for is described in the contract. Specify all materials to be used, such as the quality, quantity, weight, color, size, or brand name as it may apply. Also, include everything you feel is important to the job, including cleanup and removal of debris and materials. You may give instructions regarding pets, children or areas where materials may not be stored.



## Describing the project

**THE GOOD:** “Set blue #6006 ceramic 6 inch square, manufactured by California Tile, style #abc, to cover perimeter lip of pool, per plan.”

**THE BAD:** “Set 6 inch ceramic tile in a dark blue around the pool.”

**THE UGLY:** “Set tile in matching blue.”

Your contract should include these basics:

1. The contractor’s name, address, and license number.
2. The approximate dates when the work will begin and be substantially completed.
3. A description of the work, equipment, materials, and contract price.
4. A schedule of payments in dollars and cents, directly referenced to the value of completed work.
5. A down payment for a swimming pool is two percent or \$200, whichever is less.
6. A Notice to Owner regarding the state’s lien laws.
7. A description of what constitutes substantial commencement of work.
8. A notice that failure of the contractor, without lawful excuse, to substantially commence work within 20 days from the start date, is a violation of Contractors License Law.
9. A notice whether or not the contractor carries commercial general liability insurance and the insurance carrier.

For more detailed information on swimming pool and other home improvement contracts, please refer to CSLB’s booklets, *Home Improvement Contracts: Putting the Pieces Together* and *What You Should Know Before You Hire a Contractor*. Order a free copy at [www.cslb.ca.gov](http://www.cslb.ca.gov) or (800) 321-CSLB.

## Scheduling payments

*The down payment for swimming pools cannot exceed two percent of the contract price or \$200, whichever is less. . . .*

*Don't let payments get ahead of the work.*

**B**e sure the financial terms of the contract are clear. The contract should include the total price, when payments will be made, and whether there is a cancellation penalty.

You can expect to make a down payment for any home improvement job; however, California law specifies the amount that is allowed. The down payment for swimming pools cannot exceed two percent of the contract price or \$200, whichever is less. The down payment for other home improvement contracts cannot exceed 10 percent of the contract price or \$1,000, whichever is less.

### **“FRONTLOADING” IS ILLEGAL**

The illegal practice of “frontloading” is a major source of complaints against swimming pool contractors. Frontloading occurs when contractors take illegally excessive down payments or take payments for work not completed. A common example with swimming pool construction is taking payment for gunite work (a sprayed concrete mixture) before the job is completed. When you let your payments get ahead of the work, you are put in a precarious position. The swimming pool contractor may ask for 50 percent of the total cost, perform only 15 percent of the work, then abandon the job, leaving you with a big hole in the ground and no funds to pay another contractor to finish the work. Don't let this happen to you—don't let payments get ahead of the work.

The final payment may be made at the completion of the final plastering phase of construction, provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed.

### **RIGHT TO RESCIND**

The law requires the contractor to give you written notice of your right to cancel a contract within three business days of signing it, provided it was solicited at some place other than the contractor's place of business (your home, for instance). Use those three days to review the contract. If you're not comfortable with it, don't be afraid to cancel. You can always work out the problems and sign a new contract, or go with a different contractor. You must cancel the contract in writing.

## Dealing with the work in progress

**T**he contract for your swimming pool construction should call for the work to be performed in accordance with all applicable building codes.

As a general rule, a building permit is required whenever structural work is involved or when the basic living area of a home will be changed. Swimming pool construction falls into these categories. The contractor should obtain the necessary building permits, and this arrangement should be spelled out in your contract. Otherwise, you may be held legally responsible for failure to obtain the required permits.

After you've signed a contract, and even after work has already begun, your contractor may offer suggestions that will change your original ideas for the work. If you have discussed added work, substitutions of materials or equipment, or changes in the completion date, make sure that clearly worded and signed "change orders" reflect this.

In most cases, you will be living in your home and using your yard while work is ongoing. Be aware of the many inconveniences that may occur. To gain access to your yard for construction of a pool, the contractor may have to remove or damage some existing landscaping or fencing. Before work begins, ask your contractor what inconveniences will occur, then plan for them.



## Understanding mechanics' liens



California law provides that anyone who furnishes labor or materials to your home can record a “Claim of Lien” or “Mechanics’ Lien” against your home if he or she is not paid. This puts your home at risk. Even if you have paid your swimming pool contractor in accordance with the written contract, if the contractor fails to pay any other person who performed work or supplied materials in connection with your pool, you still run the risk of having a mechanics’ lien filed against your home. This could result in you paying a bill twice to protect your home against foreclosure.



## PROTECTING YOURSELF

You can protect yourself in the following ways:

**Lien releases.** Specify in the written contract that your swimming pool contractor must obtain lien releases from each of the subcontractors and materials suppliers. A lien release is a document which, when signed by a subcontractor, laborer or material supplier after being paid for work or materials, waives any future right to enforce a mechanics' lien against your property.

**A payment bond.** In your written contract, require that your swimming pool contractor obtain a payment bond. A payment bond assures the owner that no liens for labor and material will be filed against the property.

**Joint payments.** Make payments to your contractor in the form of a joint check to your contractor and the person or company providing labor or materials.

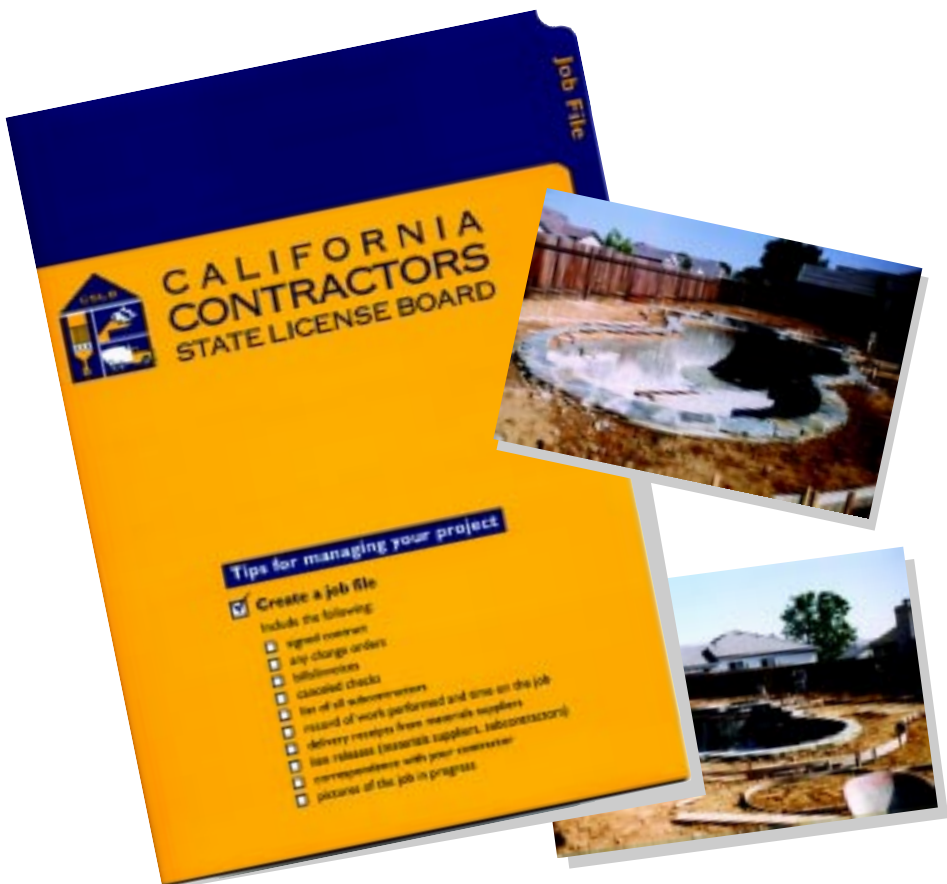
**Joint control.** State in your written contract that you will use a joint control company to disburse payments. A joint control company is a licensed escrow company that specializes in handling funds for construction jobs. Instead of giving the money to your contractor, you give it to the joint control company, which then makes payments to your contractor, subcontractors, and suppliers.



## Keeping a job file

**K**ee a job file of all documents related to your project, including the contract and any change orders, plans and specifications, bills and invoices, cancelled checks, lien releases, notes and correspondence, and photos of the job in progress.

It is also a good idea to keep a record of subcontractors, the dates they were on the job and the work they performed, and to document material deliveries.





## Handling problems

If you have planned carefully, the construction and completion of your swimming pool should be accomplished without major problems. However, despite the precautions you have taken, problems may occur. If problems arise during or after construction, talk to your contractor. Usually, he or she will make corrections willingly.

Send your contractor a letter addressing your concerns and problems. If your contractor refuses to make corrections, you should file a complaint with the CSLB. In most cases, the CSLB will attempt to mediate a settlement; however, if the contractor is found to be in violation of Contractor Law, they may take legal action. Legal action can result in a citation, license suspension or revocation. There is no guarantee that the CSLB action will result in restitution.

For more information, please order a free copy of *A Consumer Guide to Filing Construction Complaints* and the complaint form online at [www.cslb.ca.gov](http://www.cslb.ca.gov) or toll-free at (800) 321-CSLB.



## Following up on resources . . .

### CONTRACTORS STATE LICENSE BOARD

The Contractors State License Board, which operates under the umbrella of the California Department of Consumer Affairs, licenses and regulates 278,000 licensed contractors in California and handles 25,000 complaints annually. The CSLB also provides consumers with free information and resources. The following materials are available:

#### Booklets

*A Consumer Guide to Asbestos*

*Blueprint for Becoming a California Licensed Contractor*

*Description of Classifications*

*Home Improvement Contracts: Putting the pieces together*

*What You Should Know Before You Hire a Contractor*

#### Pamphlets

*Advertising Do's and Don'ts for Contractors*

*After a Disaster*

*Building Your Career as a Licensed Contractor (English/Spanish)*

*A Consumer Guide to Filing Construction Complaints (English/Spanish)*

*A Guide to Contractor License Bonds*

*What Seniors Should Know Before Hiring a Contractor (English/Spanish)*

*What You Should Know Before You Hire a Contractor (English/Spanish)*

These materials are available by writing to CSLB Publications, P.O. Box 26000, Sacramento, CA 95826, calling (800) 321-CSLB, or logging onto [www.cslb.ca.gov](http://www.cslb.ca.gov).

The CSLB also maintains a toll-free automated telephone response system and an informational Web site full of resources, including a License Status Check feature, which allows Web visitors to instantaneously check the license of any contractor in the state. Check it out at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call toll-free at (800) 321-CSLB.



## OTHER RESOURCES

The Better Business Bureau maintains a Web site at [www.bbb.org](http://www.bbb.org). The website provides information, tips, and how to contact a BBB near you.

The California Spa and Pool Education Industry Council can answer questions regarding your swimming pool project. Contact this association of swimming pool contractors at (800) 991-7732.

Search the Internet for information on swimming pools and spas, including [nspi.org](http://nspi.org), the Web site of the National Spa & Pool Institute.



*Photos courtesy of the National Spa & Pool Institute:  
cover, pages 6, 9, 13, 14, 16, 17.*



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